

**Supporting Statement for
30 CFR Part 204, Alternatives for Marginal Properties
(OMB Control Number 1010-NEW)**

A. Justification

1. What circumstances make this collection of information necessary?

The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The product valuation determination process is essential to assuring that royalty payments are based on the proper value of the minerals being removed.

The Minerals Management Service (MMS) performs the royalty management functions for the Secretary. When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. Royalty rates are specified in the lease instrument.

The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties are paid appropriately.

MMS is proposing to amend its regulations to provide guidance to lessees and designees seeking accounting and auditing relief for Federal marginal properties (Attachment 1). On August 13, 1996, Congress enacted the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104-185, as corrected by Pub. L. 104-200 (RSFA). A copy of the relevant portions of RSFA is included as Attachment 2. RSFA amends portions of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 *et seq.*

RSFA section 7 provides for MMS to determine, on a case-by-case basis, the amount of marginal production that may be subject to either a prepayment of royalty or accounting and auditing relief. RSFA does not define marginal property for purposes of section 7, but does say that any alternative that is granted must be to promote production, reduce administrative costs, and increase net receipts to the United States and the States. RSFA also provides that the State concerned with a marginal property must approve any use of an alternative under section 7.

MMS has determined, depending on the type of accounting and auditing relief being sought by the lessee or designee, that either a notification or relief request must be filed with MMS from a marginal lessee or designee to obtain the relief provided for by section 7. This will allow the lessee or designee to specify the type of relief they seek under section 7 on a case-by-case basis, as required by RSFA.

Notification is required for lessees or designees who wish to take the cumulative reporting and payment relief option. A relief request is required of lessees or designees who wish to obtain any other type of individual accounting and auditing relief. The new information collection under this rule is voluntary; only those lessees or designees who choose to obtain relief must supply this information.

2. How, by whom, and for what purpose will the information be used?

The information supplied by the lessee or designee in their notification or relief request will be used by MMS and the State concerned to (1) identify the person making the request, (2) identify the marginal property for which relief is being requested, (3) determine the relief being sought by the lessee or designee, (4) determine if the relief should be granted or denied, and (5) monitor the lessee's continuing eligibility of the relief being taken. Under RSFA, both MMS and a State concerned with a marginal property must approve any accounting and auditing relief granted for a marginal property. Therefore, the relief must be determined to be in the best interests of the Federal Government and the State concerned.

3. Does the collection involve the use of information technology, does it reduce the burden, and to what extent?

The use of improved information technology is not applicable for this information collection. The information being requested of the lessee or designee in its notification or relief request is the minimum information necessary to efficiently process the lessee's or designee's notification or request for accounting relief. No electronic means for submission of the notification or relief request is being proposed, however, we will accept submission by email or fax.

4. Is the information duplicated by any other Federal agency, and can similar information be used or modified for this collection?

No duplication of information is being proposed. No other Federal agency collects similar information that can be modified for this collection. The marginal property accounting and auditing relief program is unique to MMS. The lessee's or designee's decision to participate in the relief can only come from the lessee or designee.

5. What is the agency doing to minimize the burden on small businesses or other small entities?

Small businesses or other small entities are among potential respondents, and they will be impacted by this proposed rulemaking. However, we have carefully analyzed marginal property requirements for each relief option to ensure that the information requested is the minimum information necessary to efficiently process the lessee's or designee's notification or request for relief and to ensure that the marginal property requirements place the least possible burden on all respondents. No special requirements or benefits are being proposed that will impact small businesses differently than larger entities.

6. What are the consequences to the Federal program or policy activity if the information is not collected or is collected less frequently; and are there any technical or legal obstacles to reducing the burden?

If the information collection being proposed is not conducted, lessees and designees cannot obtain the relief offered by RSFA section 7. Marginal wells may be prematurely abandoned resulting in a permanent loss of royalty revenues to the Federal Government and the State concerned as well as a loss of production revenues to the lessee or designee.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2) requiring respondents to: (i) report more often than quarterly, (ii) prepare written responses in fewer than 30 days after receipt, (iii) submit more than an original and two copies of any document, or (iv) retain records for more than 3 years?

This collection of information is consistent with these provisions at 5 CFR 1320.5(d)(2)(i) through (iv). There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii), as the collection is not a statistical survey and does not use statistical data classifications; nor does it include a pledge of confidentiality not supported by statute or regulation or require proprietary, trade secret, or other confidential information not protected by agency procedures.

8. What efforts did the agency make to consult with the public and a representative sample of respondents?

MMS published a proposed rule in the Federal Register on January 21, 1999 (64 FR 3360) (Attachment 3). Public comments received in response to the proposed rule were sharply contradictory. The comments fell into two general categories:

1. The States believed that MMS was offering too much relief to industry; and
2. Industry believed that the rule was too complicated and did not offer enough relief.

Because of the contradictory opinions, the Associate Director for Minerals Revenue Management asked the Royalty Policy Committee to form a subcommittee to review the marginal property issue and

make recommendations to DOI on how MMS should proceed. The RPC appointed a subcommittee with members from several industry associations and the major States impacted by the relief provisions. MMS employees and a representative of the Office of the Solicitor served as technical advisors to the subcommittee.

The RPC subcommittee prepared a report that was submitted to the RPC on March 27, 2001. The RPC accepted the subcommittee's recommendations and submitted the report to the Secretary of the Interior on May 4, 2001. On August 2, 2001, the Acting Director for MMS, on behalf of the Secretary, approved the report and advised MMS to proceed with a second proposed rule incorporating the subcommittee's recommendations. This proposed rule includes those recommendations.

9. Will payments or gifts be provided to respondents?

No payments or gifts will be provided to the respondents.

10. What assurance of confidentiality is provided to respondents?

This information collection will not contain confidential information. However, should a lessee or designee supply financial or other commercial information in this information collection, this information may be proprietary. Trade secrets and proprietary information are protected in accordance with standards established by FOGRMA, as amended (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department regulations (43 CFR 2). Storage of such information and access to it is controlled by strict security measures.

11. Does the information collected include any questions of a sensitive nature?

None of the information requested is considered sensitive.

12. What is the estimated reporting and record keeping "hour" burden?

The annual reporting burden for this information collection is 2,206 hours in the first year after this rule is effective. We expect approximately 1,034 responses from 1,010 Federal lessees or designees and approximately 4 responses from 4 States annually. The table below shows the breakdown of burden by proposed CFR section and paragraph:

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
204.202(b); 204.205(a)	You must notify MMS under § 204.205(a) before taking [cumulative reporting] relief under this option * * * To take accounting relief under § 204.202, you must notify MMS in writing * * *	2	1,000	2,000
204.202(c), (e), (f), (g); 204.210(c)	Submit your royalty report and payment * * * by the end of February * * * Submit your royalty report and payment by the end of March if you have an estimate on file * * * Report one line of cumulative royalty information on the Report of Sales and Royalty Remittance, Form MMS-2014 * * * If you take relief you are not qualified for, you must * * * amend your Form MMS-2014 * * * You must report allowances on Form MMS-2014 on the same annual basis as the royalties for your marginal property * * * You must report and pay royalties for the portion of the calendar year * * * by the end of the month after you dispose of the marginal property * * * You must adjust your royalty payments if they are affected by any required BLM or OMM reallocation under the nonqualifying agreement.	Burden covered under OMB Control Number 1010-0140		
204.203(b); 204.205(b)(1); 204.206(a)(3), (b)	You must request approval from MMS under § 204.205(b) before taking relief under this [other relief] option * * * To obtain [other] accounting or auditing relief under § 204.203, you must file a written request * * * You have 60 days from your receipt of MMS's notice to either accept or reject any modifications in writing * * * If your request for relief is not complete * * * you must submit the missing information within 60 days * * * You may submit a new request for relief * * * at any time after MMS returns your incomplete request.	4	10	40
204.208 (c), (d)	* * * The State must notify the Associate Director for [MRM], in writing * * * its intent to allow or disallow one or both of the relief options * * * [and] specify in its notice of intent * * * which relief options it will allow or not allow * * * If it so decides [that it will allow one or both of the relief options previously denied] * * * the State must notify the Associate Director * * * in writing * * * its intent to allow one or both of the relief options * * * [and] specify in its notice of intent * * * which relief options it will allow.	40	4	160
204.209(b)	You must notify MMS in writing by December 31 that the relief for your property has terminated.	.25	24	6
Total			1,038	2,206

As noted in the table above, the total burden hours for this information collection is 2,206 hours. Using an average cost of \$50 per hour, the total cost to respondents is \$110,300. There are no additional recordkeeping costs associated with this information collection.

In the second year after this rule is effective and each year thereafter, the annual burden for this information collection will be substantially reduced to an estimated 406 hours and a total cost of \$20,300 (406 hours X \$50/hour). Because the reporting and payment relief for a qualified property is for the life of the property as long as the property produces less than 1,000 BOE per year, a notification under §§ 204.202(b) and 204.205(a) need only be filed one time. Consequently, we expect only 100 notifications for newly-qualifying properties in each subsequent year. The total estimated burden for notifications will decrease from 2,000 hours (1,000 responses X 2 hours) to 200 hours (100 responses X 2 hours) for a total decrease of 1,800 hours. MMS will notify OMB of this burden adjustment at the appropriate time.

Effects on OMB Control Number 1010-0140, Report of Sales and Royalty Remittance, Form MMS-2014. We estimate that as a result of cumulative reporting, lessees will submit, and MMS will receive, a total of 22,000 fewer lines on Forms MMS-2014, each year. However, because this rule potentially impacts less than 0.9 percent of the annual total of expected lines ($22,000 \text{ lines} \div 2,496,000 \text{ lines} = .0088$), we are not revising our burden estimates for OMB Control Number 1010-0140 at this time. Our burden estimates for Form MMS-2014 are based on a combination of historical information and informed but subjective judgements about future occurrences. Thus, our estimates are not sufficiently precise to project a measurable difference in burden for a relatively minor decrease in reported lines.

13. What is the estimated reporting and recordkeeping “non-hour” cost burden of the collection of this information, excluding any costs identified in Items 12 and 14?

We have identified no reporting or recordkeeping “non-hour” cost burdens for this collection of information.

14. What is the estimated annualized cost to the Federal Government?

Total annual cost to the Federal Government is expected to be \$24,150 as calculated below:

Notices. MMS expects to receive 1,000 notices from lessees who wish to report annually on their marginal properties. MMS estimates that recording each notification in MMS automated records will require 5 minutes per notice. Total time to record the notifications is approximately 83 hours annually ($1,000 \text{ notices} \times 5 \text{ minutes/notice} \div 60 \text{ minutes/hour}$). Using an average cost of \$50 per hour, we estimate the total annual cost for notices to be \$4,150 ($83 \text{ hours} \times \$50/\text{hr.}$).

Requests. In addition, MMS expects to receive 10 requests for individual accounting and auditing relief from lessees annually. We estimate that each request will require 40 hours to analyze and approve for a

total of 400 hours (10 requests X 40 hours/request). Using an average cost of \$50 per hour, we estimate the total annual cost for requests to be \$20,000 (400 hours X \$50/hr.).

15. Is the agency requesting any program changes or adjustments reported in Items 13 and 14 of the Form OMB 83-I?

The OMB Inventory is increased by 2,206 burden hours. This increase (program change) is due to new reporting requirements associated with the proposed rule. Once the proposed rule has been approved, we will reduce the burden hours to 1 hour during the inactive period of the rule until a final rule is published. There is no cost burden requested for Item 14.

16. Are there plans for tabulation and publication of the results of the information collection?

The data collected will not be tabulated and published for statistical use.

17. Is the agency seeking approval to not display the expiration date?

No. The expiration date of OMB's approval will be displayed on any correspondence MMS sends to lessees or designees concerning this information collection.

18. Is the agency requesting exceptions to the certification statement in Item 19 of Form OMB 83-I?

To the extent the topics apply to this collection of information, we are not requesting exceptions to the "Certification of Paperwork Reduction Act Submissions."

B. Collections of Information Employing Statistical Methods

This section is not applicable. We will not employ statistical methods in this information collection.